

APPENDIX A

Interference Resolution Procedures

Suggested License Conditions and Rule Changes	Discussion of Suggested License Conditions and Rule Changes
<p>I. Interference from Low-Site Digital Transmitters</p> <p>A. The licensee of any system in the 806-824/851-869 MHz band that installs a digital transmitter with an antenna height less than 200 feet (60.96 meters) AGL shall provide the Commission and the frequency coordinator(s) for the 800 MHz band with the following information within 30 days after installation:</p> <ol style="list-style-type: none"> 1. Licensee Name; 2. Licensee Point of Contact Name, Address, and Telephone Number 3. Geographic coordinates of all antenna structures on which it has installed transmitting antennas less than 200 feet (60.96 meters) AGL; and 4. Certification that the licensee has performed an engineering analysis pursuant to generally accepted industry practices, by which it has determined that its operations, either alone or in conjunction with systems of other licensees operating in close proximity, will not cause co-channel, adjacent channel, or intermodulation interference to other licensees in the 806-824/851-869 MHz band with service areas that overlap a 	<p><i>Irrespective of whether the band is realigned according to the program outlined above, the rules should provide that licensees of low-site digital transmitters have an obligation to cooperate in avoiding and mitigating interference to other licensees. This obligation extends across the entire 806-824/851-869 MHz band, and would include Nextel's post-realignment operations in the 816-824/861-869 MHz band. The primary enforcement tool is the creation of a database, to be maintained by the Commission and the coordinators, of the geographic locations of all low-site digital transmitters. Since this database would only be used to resolve interference complaints, it only needs basic information regarding station location and point-of-contact information for the licensees. Licensees of low-site digital systems would also be required to analyze the potential for interference to other systems with service areas in the vicinity of the low-site digital transmitter. Interference studies need not be filed with the Commission, but must be produced upon Commission request.</i></p>

<p>5,000 foot radius around the digital transmitter site. Documentation supporting this certification need not be filed with the Commission but must be made available to the Commission upon request. Licensees are responsible for the continuing accuracy of the information included in this notice.</p> <p>B. If the licensee of a system in the 806-824/851-869 MHz band reasonably believes, based on generally accepted engineering analysis, that it is experiencing interference from a system low-site digital system at a specific location or locations, the licensee may serve written notice of interference on the digital licensee(s) having facilities within 5,000 feet of the area(s) of interference.</p> <p>1. <u>Initial notification</u>: A licensee receiving interference seeking the participation of low-site digital licensees in evaluating an alleged interference occurrence shall post a standard interference complaint to an e-mail address operated jointly by the licensees of low-site digital systems. The complaint shall contain (a) the specific geographical location where the interference is occurring in terms of latitude and longitude, (b) the FCC license information for the offended party, and (c) the offended party's point of contact ("POC") for technical information.</p> <p>2. <u>Initial response</u>: All operators receiving notice of the complaint shall respond to the complaint within two business days and shall confirm whether they have</p>	<p><i>A licensee experiencing interference could initiate interference resolution procedures by serving notice on licensees of nearby low-site digital transmitters. The requirements for notification and mitigation are largely modeled on the procedures recommended by Nextel and the other "Consensus Parties."</i></p>
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<p>equipment operating within 5000 feet of the location of the alleged interference. The equipment may be either cell site equipment or repeaters.</p> <p>3. <u>On-site analysis.</u> The complaining entity's technical POC shall contact the potential contributors and arrange for an on-site analysis to take place within five business days (or later, at the discretion of the complaining entity). All potential contributors to the interference shall support the analysis effort. On the agreed-on day the complaining entity's technical POC and the POCs from the potential contributors shall conduct an analysis of the interference.</p> <p>4. <u>Mitigation steps.</u> When the analysis shows that one or more of the potential contributors are interfering with the system in question, the contributors to the interference shall correct the interference per industry-standard mitigation techniques. If the analysis shows that a suspected contributor is not part of an interference problem, the suspected contributor will be relieved of responsibility for correcting interference at that site. If the analysis shows that a suspected contributor is causing interference, that entity shall contribute to resolving the interference. The resolution of the interference shall be documented and copies provided to each contributor and the complaining licensee.</p> <p>5. <u>Active management.</u> If mitigation</p>	
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<p>of interference at a site requires that contributors make changes which are easily reversed (e.g., changing of transmitter frequencies to avoid intermodulation ("IM") product formation on a particular frequency, or a reduction in on-street power), then the contributor making the change shall coordinate both with the other contributors and the complaining entity before making further changes to the site.</p> <p>6. <u>Interference from equipment not belonging to CMRS providers.</u> If the interference is found to be caused by something other than the equipment belonging to a CMRS provider (e.g., a bi-directional amplifier ("BDA") installed by a third party), the owner of the equipment shall be responsible for mitigating the interference.</p> <p>7. The licensee alleging interference shall have a duty to cooperate in the implementation of the most cost-effective solution.</p> <p>8. If an agreement between the parties is not reached within 60 calendar days after receipt of the written notice of interference, either party may submit the matter to the FCC for resolution.</p>	
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APPENDIX B

Rebanding Transition Procedures

There is little direct evidence that a realignment of the 800 MHz band as proposed by Nextel and the Private Wireless Coalition will sufficiently mitigate interference to justify the massive cost and disruption that would be occasioned thereby. However, even if the FCC could find that the benefits of such rebanding will outweigh the costs, there is no reason why relocations could not be accomplished using market-based transition procedures comparable to those previously used by the FCC. The following suggested rule changes and license conditions are offered in order to illustrate that it would be possible to initiate a market-driven rebanding process that could be adopted within the scope of the FCC's authority, would not be dependent on "voluntary" commitments by any parties, and would not require a cumbersome administrative bureaucracy. These suggested license conditions and rule changes should not be construed as support for rebanding generally.

Suggested License Conditions and Rule Changes	Discussion of Suggested License Conditions and Rule Changes
<p>I. Definitions. As used herein-</p> <p>A. The "Report and Order" is the Report and Order adopted in WT Docket No. 02-55.</p> <p>B. An "incumbent system" is a radio system licensed to any entity other than Nextel or its affiliates in the 806-824/851-869 MHz band as of the effective date of the Report and Order in WT Docket No. 02-55.</p> <p>II. Condition on Nextel's Licenses. All licenses in the 806-821/851-866 MHz band held by Nextel Communications, Inc., as well as its affiliates, subsidiaries, and other entities substantially controlled by or under common control with Nextel (collectively referred to herein as "Nextel"), as of the effective date of the Report and Order, shall be subject to the following conditions:</p> <p>A. <u>Relocation of Incumbent Systems.</u> Nextel shall, at its own expense, and subject to the comparability standards of Section 90.699(d)(1)-(4):</p> <p>1. Relocate all incumbent systems</p>	<p><i>The <u>Report and Order</u> should impose certain conditions on Nextel's licenses requiring it to relocate incumbents in the 800 MHz band such that NPSPAC channels would be relocated to designated replacement spectrum (e.g. the 806-809/851-854 MHz band), and Nextel would relocate from below 816/861 MHz to spectrum above 816/861 MHz, including the former NPSPAC channels. Nextel would have certain rights to relocate incumbents, but would also be subject to certain obligations to protect incumbents' interests throughout the relocation process.</i></p>

<p>from the 806-809/851-854 MHz band to equivalent spectrum in the 809-816/854-861 MHz band;</p> <ol style="list-style-type: none"> 2. Relocate all incumbent systems from the 821-824/866-869 MHz band to equivalent spectrum in the 806-809/851-854 MHz band pursuant to a channel plan that maps on a one-for-one basis each channel in a Public Safety Regional Plan to a new channel in the 806-809/851-854 MHz band while maintaining channel spacing as provided in the Regional Plan; and 3. Relocate an incumbent system from the 814-816/859-861 MHz band to equivalent spectrum in 809-814/854-859 MHz band upon written request of the incumbent licensee made within 12 months after the effective date of the Report and Order. In any event, a licensee relocating to or electing to remain in the 814-816/859-861 MHz band shall be entitled to the same levels of interference protection as any other licensee in the 806-816/851-861 MHz band. <p>B. <u>Guaranteed Payment.</u> No incumbent system licensee is required to relocate unless all estimated relocation costs are paid in advance by Nextel, or unless the parties agree otherwise.</p> <ol style="list-style-type: none"> 1. To guarantee adequate funding for this process, Nextel shall place in an irrevocable escrow account sufficient funds to cover the projected relocation costs. The Commission may authorize adjustments to the escrow amount to ensure that the escrow account contains sufficient funds to cover 	<p><i>Nextel would be required to relocate incumbents from the former General Category channels and the former NPSPAC channels, as well as any licensees in the 814-816/859-861 MHz "guard band" that request relocation during the first year after the rules are adopted.</i></p> <p><i>To ensure that no one is forced to relocate without funding, all relocation expenses would be paid in advance unless the parties agree otherwise. Because a partial realignment of the 800 MHz band could lead to worse interference conditions than exist today, Nextel should be required to establish an escrow account to guarantee its complete performance of the required relocations.</i></p>
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<p>the reasonably projected costs of relocation. In the event of bankruptcy, insolvency, or other inability or unwillingness of Nextel to complete the necessary relocations, funds from this escrow may be used to reimburse incumbent licensees for all reasonable steps to complete the transition. The escrow agreement shall provide for the return of funds to Nextel only on order of the Commission.</p> <p>C. <u>Upper Band Replacement Spectrum.</u> Nextel shall be authorized to commence operation in the 821-824/866-869 MHz band in a given Public Safety Planning Region only upon certification to the Commission that it has entered Relocation Agreements with respect to all incumbent systems in that Region as provided in paragraphs A.1. through A.3. above.</p> <p>D. <u>Cancellation of Other Licenses.</u></p> <ol style="list-style-type: none"> 1. Nextel's authorization for channels in the 806-816/851-861 MHz band within a given Public Safety Planning Region shall cancel automatically, and Nextel shall cease operations on all such channels, within eighteen (18) months after it has entered agreements for the relocation of incumbent Public Safety systems in that Region from the 821-824/866-869 MHz band as required in paragraph A.2. above. 2. Neither Nextel nor any of its affiliates, subsidiaries, and other entities substantially controlled by or under common control with Nextel shall be eligible to acquire, 	<p><i>Nextel's modified license would provide it with replacement spectrum in the former NPSPAC channels at 821-824/866-869 MHz. However, it could not access this spectrum in a Public Safety Planning Region until it has entered agreements to relocate all incumbent systems in that region.</i></p> <p><i>To ensure that Nextel promptly exits the spectrum below 816/861 MHz, it would lose the right to operate below 816/861 MHz 18 months after it has entered agreements to relocate Public Safety systems out of the former NPSPAC band.</i></p> <p><i>In recognition of the contiguous nationwide spectrum it would obtain as a result of this process, neither Nextel nor its affiliates</i></p>
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<p>directly or indirectly, any licenses for channels in the 806-816/851-861 MHz band upon the effective date of the <u>Report and Order</u> in WT Docket No. 02-55, except to the extent channels are exchanged with incumbent systems for purposes of the relocations described in paragraphs A.1. through A.3. above.</p> <p>III. Availability of Vacated Channels.</p> <p>A. Channels in the 809-816/854-861 MHz band vacated by Nextel will become available for routine licensing to other entities in a particular Public Safety Region only after all of the incumbent systems in the 806-809/851-854 MHz and 821-824/866-869 MHz bands, as well as incumbent systems in the 814-816/859-861 MHz band electing relocation, have been relocated in that Region.</p> <p>B. Upon relocation of all incumbent systems from these bands in a particular Public Safety Region, the Commission will issue a Public Notice announcing the completion of the relocation process for that Region, and will make any remaining channels vacated by Nextel in the 809-816/854-861 MHz band in that Region available for licensing to other entities eligible for Public Safety, Business, or Industrial/Land Transportation licenses.</p> <p>IV. Relocation Procedures</p> <p>A. <u>Relocation Period</u>. The Relocation Period shall commence on the</p>	<p><i>would be permitted to re-license channels below 816/861 MHz.</i></p> <p><i>Although Nextel would not have authority to operate on these channels once its licenses cancel, these vacated channels could be used only for relocation purposes until the Commission determines the relocation process has been completed in a particular NPSPAC region.</i></p>
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<p>effective date of the Report and Order in WT Docket No. 02-55.</p> <p>B. <u>Relocation Notice</u>. Nextel may commence the relocation of an incumbent system at any time during the Relocation Period by providing the licensee with written notice of an intent to relocate.</p> <p>C. <u>Mandatory Negotiations</u>. Following receipt of notice, the parties shall negotiate in good faith to develop a Relocation Plan.</p> <p>1. Under the Relocation Plan, Nextel shall, at its own expense, provide the incumbent with equivalent replacement spectrum as specified in Section II.A. above, and shall assume liability for or reimburse the incumbent licensee for all costs, including legitimate and prudent transaction expenses and the licensee's internal resources devoted to the relocation process, and costs associated with coordination, engineering, and facilities that may be necessary to provide the incumbent licensee with performance and capacity that is comparable to what was provided by the incumbent's existing system prior to the relocation, using the same factors to assess comparability as defined in Section 90.699(d)(1)-(4) of the Commission's Rules.</p> <p>Authorization for a replacement channel shall contain no additional restrictions or encumbrances beyond those that were applicable immediately prior to the effective date of the Report and Order to the channel to be vacated by the incumbent licensee.</p>	<p><i>The relocation rules are modeled after the relocation rules previously used to clear the 2 GHz band for PCS and the Upper 200 SMR channels, and depend on the balancing of rights and obligations between the incumbents and the "new" licensee initiating the relocations. However, since the intent of this process would be to promptly initiate action to mitigate interference, there would be no "voluntary" negotiation period; i.e., parties would be under an obligation to negotiate in good faith.</i></p> <p><i>Comparability of replacement systems would be gauged by the existing definition of comparability in Section 90.699. Moreover, replacement channels would have to provide the incumbent licensee with at least the same opportunity to operate and modify facilities as with its existing license. Thus, for example, an EA licensee in the 806-809/851-854 MHz band should receive an EA-based license that contains no encumbrances or technical restrictions that differ from the encumbrances or conditions (if any) that exist with respect to the incumbent's license immediately prior to the effective date of the Report and Order.</i></p>
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<p>2. The replacement channels for incumbent systems in the 806-809/851-854 MHz band shall consist of designated replacement channels formerly licensed to Nextel. These may include channels from the 809-816/854-861 or 816-821/861-866 MHz band.</p> <p>3. The Relocation Plan shall establish timeframes for relocation intended to minimize disruption of the incumbent's operations. For this purpose, three years shall be presumed to be a reasonable period of time to relocate a system that was licensed for, or would qualify for, extended implementation under Section 90.629(a). Unless the parties specifically agree otherwise, the Relocation Plan shall provide for each mobile and portable to be re-tuned only once.</p> <p>D. <u>Good Faith</u>. Once mandatory negotiations have begun, a party may not refuse to negotiate and all parties are required to negotiate in good faith. Good faith requires each party to provide information to the other that is reasonably necessary to facilitate the relocation process. In evaluating claims that a party has not negotiated in good faith, the FCC will consider, <i>inter alia</i>, the following factors:</p> <p>1. Whether Nextel has made a bona fide offer to relocate the incumbent system to comparable facilities as defined in Section 90.699(d);</p> <p>2. If the incumbent licensee has demanded a premium, the type of premium requested (e.g., whether</p>	<p><i>While it has been assumed that Nextel has sufficient channels to be vacated for replacement purposes, if those channels are insufficient in any market, it would be required to provide replacement channels from its "Upper 200" SMR channels.</i></p> <p><i>A key part of any Relocation Plan is the timeframe within which the incumbent will relocate, giving due regard to the size of the system and the need to avoid disruption to ongoing operations.</i></p> <p><i>The requirement to negotiate in good faith is modeled after the mandatory negotiation rules for the 2 GHz microwave band. These rules place an emphasis on a negotiated solution, but provide safeguards against overreaching by either party, with allowance for complaints to the FCC should one party believe the other party is not negotiating in good faith.</i></p>
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<p>the premium is directly related to relocation, and whether the value of the premium as compared to the cost of providing comparable facilities is disproportionate (i.e., whether there is a lack of proportion or relation between the two);</p> <ol style="list-style-type: none"> 3. What steps the parties have taken to determine the actual cost of relocation to comparable facilities; 4. Whether either party has withheld information requested by the other party that is necessary to estimate relocation costs or to facilitate the relocation process. <p>E. Any party alleging a violation of the good faith requirement must attach an independent estimate of the relocation costs in question to any documentation filed with the Commission in support of its claim. An independent cost estimate must include a specification for the comparable facility and a statement of the costs associated with providing that facility to the incumbent licensee.</p> <p>F. <u>Involuntary Relocation Procedures.</u> If no agreement is reached during the mandatory negotiation period, Nextel may request involuntary relocation of the incumbent's system. In such a situation, Nextel must:</p> <ol style="list-style-type: none"> 1. Guarantee payment of relocation costs, including all engineering, equipment, site and FCC fees, as well as any legitimate and prudent transaction expenses incurred by the incumbent licensee that are directly attributable to an involuntary relocation. 	<p><i>If the parties cannot reach an agreement within the one-year mandatory negotiation period, Nextel could initiate involuntary relocation procedures by guaranteeing to pay all relocation costs, providing for all steps necessary to complete the transition, and ensure that the replacement facilities meet the standards for comparability.</i></p>
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<ol style="list-style-type: none"> 2. Provide for the completion of all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure, and obtaining, on the incumbents' behalf, new frequencies and frequency coordination; and 3. Ensure that the replacement system is built and tested for comparability with the existing 800 MHz system. 	
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